

6 IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 3rd Day of April 1998

BEFORE

THE HON'BLE MR. JUSTICE CHANDRASHEKARAI AH

WRIT PETITION NO.8808/1998

BETWEEN:

Life Insurance Corporation of India,
by its Senior Divisional Manager,
Divisional Office,
"Jeevan Krishna", Ajjara Kad,
Udupi-576 101.

...PETITIONER

(By Sri. V.C. Brahmarayappa, Adv.)

AND:

1. Mangalore City Corporation,
by its Commissioner,
Lal Bagh,
Mangalore-575 003.

2. Dr. M. Ramgopala Shetty,
s/o late Dr. Venugopala Shetty,
Dr. M.V. Shetty Hospital
(Surgical Nursing Home),
Mangalore-575 003.

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...RESPONDENTS

(By Sri. K.L. Manjunath, Adv. for R-1)

This Writ Petition is filed under Articles 226 & 227 of the Constitution of India, with a prayer to quash the cancellation of licence made in Annex.A. dt. 7.2.98 and etc.

This Writ Petition coming on for preliminary hearing this day, the Court made the following:-

ORDER

The petitioner was granted a licence on 12.04.96 permitting him to put up construction on the premises situated in TS.NO.281-2A1 of Attavara village, near A.B.Shetty Circle, Mangalore. The said licence was cancelled by the respondent - Corporation on the ground that the land is required by the Municipality for public purpose. This cancellation has been called in question by the petitioner in this writ petition.

Consequent on the cancellation of the licence, Corporation has issued another notice dated 09.3.98 intimating the petitioner not to construct on the said land. If he proceeds with the construction, steps will be taken to remove the said construction treating it as unauthorised.

As stated above, the Corporation has no authority whatsoever to cancel the licence which has already been granted under the Act. It is also stated that the construction, if any, will not come in the way of acquisition ^{of the said property} by the Corporation, [^] if it is required for the public purpose. In the said view of the matter, there is no reason for the respondent-Corporation to issue notice threatening demolition as per Annexure-D.

It is not disputed that the petitioner was granted a licence on 12.4.96 as per Annexure-B. When once the licence has been granted in favour of the petitioner permitting him to put up a construction, there is no provision which confer any power on the respondent - Corporation to cancel the same. When such being the case, the order as per Annexure-A is illegal and ^{is} ~~are~~ liable to be quashed.

It is not disputed that the petitioner is the owner of the said property. On the application

filed by the petitioner, the Municipal Corporation, has granted licence in his favour as per Annexure-B in the year 1996. The reason given by the Corporation for cancellation of the licence is that the said land is required for public purpose. Though licence was granted in the year 1996, Corporation has not produced any material to show that it has taken steps to move the Government for acquisition of the said land. If that is so, the reason given by the Corporation that the land is required for public purpose cannot be accepted. If really the land is required for public purpose, it is open for the Municipal Corporation to move the Government for acquisition of the same. Therefore there is no reason for the Municipal Corporation to cancel the licence granted earlier on the ground that the said land is required for public purpose.

In the result I pass the following order;

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This writ petition is allowed and Annexure-A
dt.19.2.98 issued by the Corporation cancelling
the licence and the subsequent notice dated
09.3.98 as per Annexure-D are quashed.

Sd/-
JUDGE



CS

SR